

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Tuwana Reaves,

Plaintiff,

v.

Charter Communications, Inc.,

Defendant.

:
:
: Civil Action No.: 4:17-cv-00651-ALM-KPJ
:
:
:

FIRST AMENDED COMPLAINT

For this First Amended Complaint, Plaintiff, Tuwana Reaves, by undersigned counsel,
states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Tuwana Reaves ("Plaintiff"), is an adult individual residing in Dallas, Texas, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant Charter Communications, Inc. ("Charter"), is a Delaware business entity with a principal place of business at 12405 Powerscourt Drive, St. Louis, MO 63131, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

5. In 2016, Charter began calling Plaintiff's cellular telephone, number 469-xxx-7706, using an automatic telephone dialing system ("ATDS" or "predictive dialer") and/or using an artificial or prerecorded voice.

6. When Plaintiff answered calls from Charter, she heard a prerecorded message regarding her account.

7. In an online chat with Charter on or about December 3, 2016, Plaintiff requested that the automated calls cease.

8. Nevertheless, Charter continued to place automated calls to Plaintiff's cellular telephone number.

COUNT I
VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS or predictive dialer and/or using a prerecorded or artificial voice.

11. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

12. The telephone number called by Defendant was and is assigned to a cellular telephone serviced by T-Mobile for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

13. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

14. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 12, 2018

Respectfully submitted,

By /s/ Jenny DeFrancisco
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2018, a true and correct copy of the foregoing First Amended Complaint was served electronically by the U.S. District Court for the Eastern District of Texas Document Filing System (ECF). In addition, Plaintiff mailed a copy to the following parties:

Spectrum f/k/a Time Warner Cable
60 Columbus Circle
New York, New York 10023

/s/ Jenny DeFrancisco
Jenny DeFrancisco, Esq.